

ATTACHMENT A

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**COPY OF THE NOTICE OF INTENTION TO
DECLARE A DOG DANGEROUS**

City of Sydney

ABN 22 636 550 790

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24 November 2011

Mr Lawrence GIBBONS



Dear Mr. Gibbons

NOTICE OF INTENTION TO DECLARE A DOG TO BE A DANGEROUS DOG
Section 35 Companion Animals Act 1998 (the Act)

This document contains important information about your obligations under the Act. Please read it carefully. Contact the council officer on the number below as soon as possible if you are unsure of your obligations or need further information.

It has come to Council's attention that you are the owner of a dog:

Name: Oscar

Microchip Number: 982009101067532

Description: Colour: Black and Tan

kept at: 

Council gives notice of its intention to declare the dog to be a dangerous dog under section 35 of the Act.

The dog is intended to be declared dangerous because Council alleges that it:

- Has, without provocation, killed a person or animal (other than vermin)
- Has, without provocation, attacked a person or animal (other than vermin)
- Has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin)
- Has displayed unreasonable aggression towards a person or animal (other than vermin)
- Is kept or used for hunting.

What must you do immediately?

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Under section 36 of the Act, you must comply with all of the following requirements from the date you receive this notice. You must:

1. Ensure that at all times when the dog is away from the property where it is ordinarily kept:
 - a) it is under the effective control of some competent person by means of an adequate chain, cord or leash
 - b) it has a muzzle securely fixed on its mouth that will prevent it from biting any person or animal.

Note: A dog is not considered to be under 'effective control' if a person has 2 dogs, one of which is the dog the subject of this proposed declaration, under his or her control at the one time.

2. Register the dog (if it is not already registered) within 7 days after receiving this notice. The dog must be microchipped before you can register it.

What happens if you do not comply with these requirements?

There is a maximum penalty of \$5,500 if all of these conditions are not met.

An authorised council officer may also seize the dog if they are satisfied that you have not complied with all these requirements.

If your dog is seized for this reason, you cannot make a claim for the dog unless an authorised council officer is satisfied that:

- a) you are capable of complying with the 'immediate' requirements listed above
- b) the dog has been registered.

Can you contest this notice?

You (or someone on your behalf) may make representations to Council – within 7 days of the date this notice was given to you – about:

- a) why the declaration should not be made
- b) the terms of the declaration
- c) the period for compliance with the declaration.

Any representations made by you (or on your behalf) must be made to:

Manager
City Rangers Unit
City Of Sydney Council
GPO Box 1591
Sydney New South Wales 2001

If you choose to contest this notice, Council has 28 days after the date the notice is given to you to assess your representations and notify you of its decision. During this period you must still continue to comply with the 'immediate' requirements set out above.

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If you choose not to contest this declaration, the dog will be declared dangerous after 7 days from the date this notice was given to you.

What happens if your dog is declared dangerous?

If your dog is declared dangerous, Council will serve you with a Dangerous Dog Declaration. You must then, by law, comply with the control requirements set out in Schedule A to this Notice. This is an excerpt from the *Companion Animals Act 1998 and Companion Animals Regulation 2008* about declared dangerous dogs.

Note: A dangerous dog declaration applies throughout NSW. It is not limited to the council area where the declaration was made.

If you need any further information about this notice, please contact Vijendra Kumar on (02) 9265 9333.

Dated: 24 NOVEMBER 2011

Arfan Chaudhary
Team Leader
City Rangers Unit

SCHEDULE A

Excerpt from Companion Animals Act 1998 and Companion Animals Regulation 2008 regarding declared dangerous dogs

Division 4 Responsibilities of owners of dangerous dogs

51 Owner of dangerous dog must comply with control requirements

1. The owner of a dog that is declared to be dangerous under this Act must ensure that each of the following requirements is complied with while the declaration is in force:

a) The dog must be desexed (if it is not already desexed) within 28 days after it is declared a dangerous dog. If the owner appeals against the declaration, the operation of this paragraph is stayed until the appeal is either withdrawn or determined.

b) The dog must not at any time be in the sole charge of a person under the age of 18 years.

c) **Enclosure requirements**

While the dog is on property on which the dog is ordinarily kept, the dog must be kept in an enclosure that complies with the requirements prescribed by the regulations. The owner has 3 months from the date on which the dog is declared dangerous to comply. In the case of an existing dangerous dog, the owner has 6 months from the relevant date to comply.

Note. A certificate of compliance in relation to the prescribed enclosure must be obtained by the owner of the dog—see section 58H.

c1) Until such time as the requirement under paragraph (c) is complied with, the dog must, while on property on which it is ordinarily kept, be kept in an enclosure that is sufficient to restrain the dog and prevent a child from having access to the dog.

d) One or more signs must be displayed on that property showing the words "Warning Dangerous Dog" in letters clearly visible from the boundaries of the property on which the dog is ordinarily kept or, if the regulations provide for the signs required by this paragraph, complying with the regulations.

d1) **Distinctive collar must be worn**

The dog must at all times wear a collar of the kind prescribed by the regulations.

e) **Dog must be kept on lead and be muzzled**

Whenever the dog is outside its enclosure, the dog:

(i) must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the person, and

(ii) must be muzzled in a manner that is sufficient to prevent it from biting any person or animal.

Note: For the purposes of this paragraph, a dog is not considered to be under the effective control of a person if the person has more than 2 dogs (one of which is the dangerous dog) under his or her control at the one time.

f)–h) (Repealed)

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- i) The owner must notify the council of the area in which the dog is ordinarily kept of the following matters within the time specified in relation to each of those matters:
 - (i) that the dog (with or without provocation) has attacked or injured a person or an animal (other than vermin)—notice to be given within 24 hours after the attack or injury,
 - (ii) that the dog cannot be found—notice to be given within 24 hours after the dog's absence is first noticed,
 - (iii) that the dog has died—notice to be given as soon as practicable after the death,
 - (iv) (Repealed)
 - (v) that the dog is no longer being ordinarily kept in the area of the council—notice to be given as soon as practicable after the change of location,
 - (vi) that the dog is being ordinarily kept at a different location in the area of the council—notice to be given as soon as practicable after the change of location.
- j) If the owner intends to keep the dog in the area of a council that is not the area in which the dog was ordinarily kept when the declaration was made, the owner must notify the council of the area in which the dog is intended to be ordinarily kept of his or her intention to do so.
- k) The dog must, regardless of its age, be registered under this Act (if not already so registered) within 7 days after it is declared a dangerous dog.

Note. Section 11 also requires the owner of a dog to notify the Deputy Director General within 7 days after a Court declares the dog a dangerous dog or revokes the declaration. If the order is made or revoked by a council, the council is required to notify the Deputy Director General (see section 40).

2. An owner of a dog who does not comply with any of the requirements of this section is guilty of an offence.

Maximum penalty: 150 penalty units (\$16,500).

3. **Exemption from being on lead and muzzled while hunting**
In the case of a dog that has been declared dangerous on the ground that it is kept or used for the purposes of hunting, the requirements imposed under subsection (1) (e) do not apply while the dog is actually engaged in lawful hunting.
4. The requirements imposed under this section on the owner of a dangerous dog are additional to the other requirements of this Act imposed on the owner of a dog.
5. In subsection (1) (c):

existing dangerous dog means a dog that is the subject of a declaration by a council or court under this Part and in force immediately before the relevant date.

relevant date means the date on which this subsection (as inserted by the *Companion Animals Amendment Act 2005*) commences.

52 Dangerous dog may be seized if control requirements not complied with

1. An authorised officer may seize a dangerous dog if the officer is satisfied that any of the requirements of section 51 have not been complied with in relation to the dog.
2. If a dog is seized under subsection (1), Part 7 applies in relation to the dog.
3. However, a claim for the dog may be made under section 64 only if an authorised officer of the council of the area in which the dog is ordinarily kept is satisfied that each of the requirements of section 51 is capable of being complied with in relation to the dog.

52A Prohibition on selling dangerous dog or proposed dangerous dog

1. A person who sells, or advertises the sale of, a dangerous dog or proposed dangerous dog is guilty of an offence.

Maximum penalty: 150 penalty units (\$16,500).

Note. The term "sell" extends to the transfer of owner by any means, including by gift.

Abandoning an animal is also an offence—see section 11 of the *Prevention of Cruelty to Animals Act 1979*.

2. A person does not commit an offence under this section by reason only of surrendering a dangerous dog or proposed dangerous dog to a council pound or an approved animal welfare organisation.

Note. A dangerous dog that is surrendered to a council pound or an approved animal welfare organisation cannot be sold.

3. In this section and in section 52B, **proposed dangerous dog** means a dog that is the subject of a proposed declaration under Division 1.

52B Prohibition on accepting ownership of dangerous dog or proposed dangerous dog

1. A person who accepts ownership of a dangerous dog or proposed dangerous dog is guilty of an offence.

Maximum penalty: 150 penalty units (\$16,500).

2. A person does not commit an offence under this section:
 - a) by reason only of taking delivery of, or detaining, a dog under Part 7 or as the consequence of a dog being surrendered to a council pound or an approved animal welfare organisation, or
 - b) if the person does not know, or could not reasonably be expected to know, that the dog was a dangerous dog or proposed dangerous dog.

53 Inconsistency with agreements

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In the event of an inconsistency between this Division and the provisions of any agreement, covenant or instrument, this Division is to prevail, but to the extent only of the inconsistency.

Note. For example, the requirement under this Division that the owner of a dangerous dog display a warning sign on premises would override a provision in a lease prohibiting the fixing of any sign to a building.

54 Civil liability of owner of dangerous dog

The mere fact that a dog has at any time been declared to be dangerous under this Act does not affect the civil liability of the owner of the dog in any proceedings (other than proceedings under this Act).

58G Power to seize and destroy dangerous or restricted dog in certain circumstances

1. Seizing dangerous or restricted dog that attacks
An authorised officer may seize a dangerous or restricted dog if the dog attacks or bites a person or animal (other than vermin) without provocation.

1a) Seizing dangerous dog if certain control requirements not complied with
An authorised officer may seize a dangerous dog if the requirements referred to in section 51 (1) (c), (c1) or (e) are not complied with in relation to the dog on at least 2 separate occasions over any period of 12 months (whether or not each occasion relates to the same requirement).

Note. See section 57 (4) for the power to seize a restricted dog for non-compliance with any of the control requirements under section 56.

2. If a dog is seized under this section:
 - a) the dog is to be delivered as soon as possible to a council pound, and
 - b) an authorised officer of a council may authorise the destruction of the dog.
3. However, if the dog has been seized under subsection (1A), the authorised officer may authorise the destruction of the dog only if the officer is satisfied that it is reasonable to do so after appropriate enquiries have been made into the circumstances that resulted in the dog being seized.
4. Part 7 (other than sections 68 and 69) does not apply in relation to a dog that is seized under this section.
5. This section does not limit the power of an authorised officer to seize a dangerous or restricted dog under any other provision of this Act.

58H Certificate of compliance required for dangerous and restricted dog enclosures

1. A person must not own a dangerous dog or restricted dog unless a certificate of compliance under this section is in force in relation to the enclosure in which the dog is required to be kept under sections 51 (1) (c) or 56 (1) (a1) (as the case requires).

Maximum penalty: 100 penalty units (\$11,000).

2. An authorised officer of a council may issue a certificate of compliance in relation to the enclosure in which a dangerous or restricted dog is required to be kept if: